

## The Yellow Ticket

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The brewing business in Pennsylvania has an aggregate capitalization of nearly \$100,000,000, and its products are valued at about \$50,000,000 annually. It operates under the protection of federal and state laws. Among the officers of the various companies and associations are men widely and favorably known in their home communities; many of them are directors in banking institutions, public utility corporations and transportation companies.

The massive architecture of some of the plants in itself produces a powerful suggestion of legitimacy and permanency, and this is emphasized by the tried financial strength of the industry and the solid business repute of its promoters. Its gilded signs are so numerous and so prominently displayed that they seem a natural feature of the urban landscape. Its ponderous wagons and motortrucks roll through in every city and suburban highway and are familiar sights to every child. The business is woven into the fabric of our daily life. It has the outward dignity of an established and reputable institution.

Thus, while denunciation of the product of the brewery is widely supported, if its assailants had based their opposition upon the charge that the industry itself was operated in a criminal manner, they would not have expressed the convictions of a majority of the anti-liquor forces. Irrefutable proof that the business has been conducted criminally comes, therefore, as a startling surprise to most citizens—especially as the evidence is supplied by its most distinguished representatives.

The disclosures came about in a curious way. The internal revenue department of the government, dissatisfied with income tax returns filed by the breweries, examined their books, and found that the companies had deducted from taxable income huge payments made to various brewers' associations for political purposes. One series of entries alone showed that upwards of \$400,000 had been paid in this manner just before the election of 1914, when Penrose was a candidate for the senate and congressmen and members of the state legislature were to be chosen. These contributions violated a federal law making it a felony for corporations to contribute to political funds at elections at which presidential electors, United States senators or congressmen are on the ballot.

The government through the federal district attorney in Pittsburgh, began a grand jury investigation into the practice. It was in the course of these proceedings that the brewers' officers and representatives put in the remarkable plea that the inquiry was improper because their procedure had been "incriminating."

But the net result was that against seventy-two brewing companies, eighteen of them Philadelphia concerns— together with the United States Brewers' Association, there were returned 101 indictments. The companies are charged, as members either of the United States or the Pennsylvania Brewers' Association, with conspiracy to violate the corrupt practices act above mentioned.

In their inquiry the federal district attorney and the grand jury questioned twelve noted leaders in the brewing industry, the vital object being to bring to light the bank passbooks, canceled checks and other records which would show the disposition of the political payments. But from these eminent witnesses the authorities received no help whatever. On the contrary, they confronted a unanimity of evasion hardly less remarkable than the method employed in expressing it. The clearest idea of the examinations will be given by setting down some of the questions and answers.

Edward A. Schmidt, president of the C. Schmidt & Sons Brewing Company and of the Northwestern National Bank of Philadelphia, former president of the United States Brewers' Association and now treasurer of the Pennsylvania Brewers' Association, was asked: "Where are the canceled checks of the Pennsylvania State Brewers' Association for 1911, 1912, 1913, 1914 and 1915?" He replied:

"I decline to answer, on the ground that my answer may tend to incriminate me; and as one

of the persons accused in this proceeding I insist upon my constitutional privilege, which protects me against being compelled to testify against myself."

John Gardiner, of Philadelphia, president of the state brewers' association, was asked what his duties were, whether there was a record of the members and when he had last seen Charles F. Ettla, the secretary. To each of these queries he replied:

"I decline to answer, on the ground that my answer may tend to incriminate me; and as one of the persons accused in this proceeding I insist upon my constitutional privilege, which protects me against being compelled to testify against myself."

Gustav W. Lembeck, of Jersey City, treasurer of the United States Brewers' Association, was asked where were the canceled checks of that body for the years 1911-1915, and whether the books were kept in Jersey City or New York. He said in each case:

"I decline to answer, on the ground that my answer may tend to incriminate me; and as one of the persons accused in this proceeding I insist upon my constitutional privilege, which protects me against being compelled to testify against myself."

Charles F. Ettla, of Philadelphia, secretary of the Pennsylvania Brewers' Association, when questioned as to the duties and records of that office, told the grand jury:

"I decline to answer, on the ground that my answer may tend to incriminate me; and as one of the persons accused in this proceeding I insist upon my constitutional privilege, which protects me against being compelled to testify against myself."

When A. W. Brockmeyer, private secretary to Edward A. Schmidt, was examined as to his knowledge of the treasurer's payments, he made this rejoinder:

"I decline to answer, on the ground that my answer may tend to incriminate me; and as one of the persons accused in this proceeding I insist upon my constitutional privilege, which protects me against being compelled to testify against myself."

James P. Mulvihill, state liquor boss and vice president of the Independent Brewing Company, of Pittsburgh, when questioned concerning the records of that concern, read from a typewritten memorandum on the front of one of its envelopes the following statement:

"I decline to answer, on the ground that my answer may tend to incriminate me; and as one of the persons accused in this proceeding I insist upon my constitutional privilege, which protects me against being compelled to testify against myself."

John J. McDermott, manager of the organization bureau of the United States Brewers' Association, met all questions with this reply:

"I decline to answer, on the ground that my answer may tend to incriminate me; and as one of the persons accused in this proceeding I insist upon my constitutional privilege, which protects me against being compelled to testify against myself."

Hugh F. Fox, secretary of the national association, went to jail for contempt rather than forego his right to answer all queries with this explicit statement:

"I decline to answer, on the ground that my answer may tend to incriminate me; and as one of the persons accused in this proceeding I insist upon my constitutional privilege, which protects me against being compelled to testify against myself."

George J. Thompson, of Chicago, a former union labor leader, who represented the brewing interests at labor gatherings, had nothing to say to the grand jury except:

"I decline to answer, on the ground that my answer may tend to incriminate me; and as one of the persons accused in this proceeding I insist upon my constitutional privilege, which protects me against being compelled to testify against myself."

Edward Heuer, of Erie, formerly a brewer, but now a retailer, and still a director of the Pennsylvania Brewers' Association, said in response to each question:

"I decline to answer, on the ground that my answer may tend to incriminate me; and as one of the persons accused in this proceeding I in-

ist upon my constitutional privilege, which protects me against being compelled to testify against myself."

The examinations outlined took place in Pittsburgh; but two witnesses heard by the grand jury in Erie gave equally valuable testimony. To each question put to Neil Bonner, of Philadelphia, president of the National Retail Liquor Dealers' Association, and to Frank J. Keelan, of Pittsburgh, secretary of the Allegheny association, came the reply:

"I decline to answer, on the ground that my answer may tend to incriminate me; and as one of the persons accused in this proceeding I insist upon my constitutional privilege, which protects me against being compelled to testify against myself."

It will be observed that some of the witnesses represented the brewing interests of the state, but there were representatives also of national associations, and their answers showed that the same "incriminating" policy has been practiced throughout the country.

A natural theory would be that these business men, frightened by being dragged into court, hastily devised this remarkably ill-advised procedure. But as a fact they were acting under the advice of eminent counsel—James Scarlet, of Danville, prosecutor in the capitol fraud cases; S. P. Tull and D. B. Hibbard, of Philadelphia, and David A. Reed, George E. Shaw, A. M. Neerer and Charles A. Fagan, of Pittsburgh.

So impressive were the lawyers' instructions that when the district attorney asked Neil Bonner casually whether it was raining when he came into the courthouse, that gentleman began, "I decline to answer, on the ground—." Unanimity on the part of the witnesses was not left to chance, however. Each of them received a yellow card, or ticket, with his strange answer typewritten upon it, and read the words carefully whenever he was questioned.

Federal prosecutions of law-defying corporations are not uncommon, and a vigorous defense is the expected thing. But this is the first time a great industry has acknowledged, through its leading representatives, that its routine activities are of such a nature that to explain or even discuss them would be incriminating. More than that, its highest officers have pleaded that for the same reason they dare not testify concerning their acts and duties.

The brewing business has always laid great stress upon its legality, its absolute legitimacy, its honesty of purpose and respect for law. Surely, it is a remarkable change when this institution is impelled to flee from the law to which it was wont to appeal and to take refuge behind a plea which is morally a confession.

Surely, the mighty industry has fallen to low estate when between it and discredit, between its proudest representatives and condemnation by the outraged law, there is no shield but a feeble evasion, a crafty, tricky yellow ticket.

The difference between talk and action is demonstrated by the fact that for a good many years the republicans discussed creating a modern banking system, an organization to widen trade relations with other countries, revive the merchant marine and reduce the tariff. The democrats have reduced the tariff, created a new banking system, maintains trade commissioners abroad, and would revive the merchant marine if republicans were patriotic enough to join in the work. Yet the average republican editor fully believes that his is the only organization that can be depended upon for practical legislative action.

The federal trade commission, when it gets fully in action, will do for commerce and business just what the federal reserve banking system has done for business credits and what the interstate commerce commission does for transportation. It will stabilize matters and afford a place where business men may find out what hitherto they have had to wait to discover at the end of a law suit, what they may and may not do. The federal trade commission is a gift to business from a democratic administration.

T. Coleman Dupont, the powder maker millionaire, has announced his candidacy for the republican nomination for the presidency. If the preparedness advocates in the republican organization are prepared to be thoroughly logical and possessed of a keen political sense, they will certainly get behind a munitions maker for president and thus insure the success of their program—if the voters will elect him.